

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CAROLINE ANGULO, et al.,

CASE NO. C22-0915JLR

Plaintiffs,

ORDER

V.

PROVIDENCE HEALTH AND
SERVICES - WASHINGTON, et al.,

Defendants.

I. INTRODUCTION

Before the court is Plaintiffs’ motion for reconsideration of the court’s August 9, 2024 order, in which the court denied Plaintiffs’ motion for class certification, granted Defendant Providence Health and Services – Washington’s (“Providence”) motion to strike class allegations, and granted Plaintiffs leave to file a fourth amended complaint. (MFR (Dkt. # 186); *see* 8/9/24 Order (Dkt. # 184).) Plaintiffs ask the court to modify its order to (1) defer ruling on the motion for class certification rather than deny it; and

1 (2) clarify that the court did not intend to end equitable tolling pursuant to *American Pipe*
 2 & *Construction Company v. Utah*, 414 U.S. 538 (1974).¹ (See generally MFR; see also
 3 Prop. Order (Dkt. # 186-1).) They “do not ask the [c]ourt to revisit the substantive merits
 4 of any matters on which it has already ruled.” (MFR at 2.) The court ordered Defendants
 5 Providence, Dr. Jason A. Dreyer, D.O., Jane Doe Dreyer, Dr. Daniel Elskens, D.O., and
 6 Jane Doe Elskens (together with Providence, “Defendants”) to respond to Plaintiffs’
 7 motion and granted Plaintiffs leave to file an optional reply. (8/23/23 Order (Dkt.
 8 # 188)); Local Rules W.D. Wash. LCR 7(h)(3) (providing that “[n]o response to a motion
 9 for reconsideration shall be filed unless requested by the court” and “[n]o motion for
 10 reconsideration will be granted without such a request”). Briefing is now complete. (See
 11 MFR Resp. (Dkt. # 190); Dreyer Joinder (Dkt. # 191); Elskens Joinder (Dkt. # 192);
 12 MFR Reply (Dkt. # 195).) The court has considered the parties’ submissions, the
 13 relevant portions of the record, and the governing law. Being fully advised, the court
 14 GRANTS Plaintiffs’ motion for reconsideration in part and CLARIFIES that it did not
 15 intend its prior order to affect the tolling of the statutes of limitations for the claims of
 16 Plaintiffs and absent class members.

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20 ¹ Plaintiffs also asked the court, “to the extent that Plaintiffs [did] not file a fourth
 21 amended complaint by August 30, 2024, . . . [to] toll[] the statute of limitations under *American*
Pipe until Thursday, October 31, 2024, to allow unnamed class members an opportunity to bring
 22 individual cases and [order] that notice to those individuals be sent.” (Prop. Order (Dkt. # 186-1)
 at 3.) Because Plaintiffs filed a timely fourth amended complaint, the court considers this
 request moot. (See 4th Am. Compl. (Dkt. # 189).)

II. ANALYSIS

Plaintiffs ask the court to reconsider the language in its August 9, 2024 order denying their motion for class certification and granting Providence’s motion to strike class allegations. (MFR at 1.) They ask the court to modify its order so that it instead “defers” ruling [on the motions] pending Plaintiffs’ filing of the[ir] Fourth Amended Complaint.” (*Id.*) They seek to “avoid an unintended consequence of disrupting the tolling of the statute of limitations under *American Pipe* pending the filing of a Fourth Amended Complaint.” (*Id.* at 2.) Plaintiffs assert it is necessary to clarify that the court did not intend to end the tolling of any statutes of limitations because “there is a split in the circuits as to whether a denial of a class certification motion results in the lifting of the tolling of the statute of limitations implemented in *American Pipe*.” (*Id.* at 3.)

“Motions for reconsideration are disfavored,” and the court “will ordinarily deny such motions in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence.” Local Rules W.D. Wash. LCR 7(h)(1); *see also id.* LCR 7(h)(2) (requiring the motion to “point out with specificity the matters which the movant believes were overlooked or misapprehended by the court” and “any new matters being brought to the court’s attention for the first time”). “Reconsideration is an extraordinary remedy,” and the moving party bears a “heavy burden.” *Kona Enters., Inc. v. Est. of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000).

The court declines to modify the language of its August 9, 2024 order. Plaintiffs have not met their burden to show manifest error and have not identified new facts or

1 legal authority that they could not have brought to the court earlier. Indeed, Plaintiffs do
2 not seek reconsideration of the court's substantive rulings, and although Plaintiffs
3 presumably could have raised their concerns about *American Pipe* tolling in their briefing
4 on the motions for class certification and to strike class allegations, they did not do so.

5 Nevertheless, the court clarifies that it did not intend by its August 9, 2024 order
6 to abrogate any tolling that might be available under applicable tolling principles. The
7 court further clarifies its intent to deny the motion for class certification without prejudice
8 and grant Plaintiffs leave to file a fourth amended complaint to allow them an opportunity
9 to address the issues identified in the August 9, 2024 order. (See, e.g., 8/9/24 Order at
10 16-17 (granting leave to amend, "to allege, if possible, proposed class definitions that are
11 not fail safe" and proceeding to consider Rules 23(a) and (b) "to provide Plaintiffs
12 guidance as they redefine their proposed classes").) In so clarifying, the court takes no
13 position on whether *American Pipe* tolling in fact applies to toll the statutes of limitations
14 for the claims of Plaintiffs and the absent class members.

15 III. CONCLUSION

16 For the foregoing reasons, the court GRANTS IN PART Plaintiffs' motion for

17 reconsideration (Dkt. # 186) and clarifies that it did not intend its August 9, 2024 order to

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1 abrogate any tolling that might be available to Plaintiffs under applicable tolling
2 principles.

3 Dated this 9th day of September, 2024.

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7 JAMES L. ROBART
8 United States District Judge
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